

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Lloyd Hinn, Jr.,**  
Appellant,

**v.**

**Pottawattamie County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-78-0187**  
**Parcel No. 7544-21-302-011**

On February 21, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Lloyd Hinn, Jr. of HHB, Inc. Property Tax Consultants represented Carter Lake Hospitality, LLC and requested a written consideration. Assistant County Attorney Leanne A. Gifford is counsel for the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

***Findings of Fact***

Lloyd Hinn, Jr. protested on behalf of Carter Lake Hospitality, LLC, the owner of property located at 1201 Avenue H, Carter Lake, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$3,160,000 representing \$184,000 in land value and \$2,976,000 in improvement value. According to the record, the property is operated as a La Quinta Inn & Suites. It is a four-story building, built in 1999. The property has 57,968 square feet of gross building area and 102 rooms. It has typical hotel accoutrements such as paved parking area, yard lights, fencing, and signage, as well as an indoor pool. The site is 2.09 acres.

Hinn protested the assessment to the Pottawattamie County Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He asserted the correct fair market value is \$1,700,000. The Board of Review denied the protest.

Hinn then appealed to this Board.

Hinn submitted several documents to the Board of Review in support of a claim that the property is over assessed. However, we find much of the evidence is not relevant and does not establish a fair market value of the subject property as of January 1, 2013. Further, Hinn provided limited explanation of the documents. The following is a list of the evidence in the certified record.

Assigned Exhibit No.	Description of Evidence	Number of Pages
1	2011/2012 Statements of Revenues & Expenses for Subject Property	2
2	2012 Income Summary for Subject Property	2
3	Market Value Review grid with three comparable properties	1
4	Loopnet Summary of 1625 S 67th St., Omaha, NE (Comp #1)	3
5	Douglas County Summary of 1625 S 67th St., Omaha, NE (Comp #1)	3
6	Letter to Board of Review	1
7	Fee Agreement for subject property	2
8	2010 Income Summary for Subject Property	2
9	Statements of Revenues & Expenses for 2009/2010	1
10	Statement of Revenues & Expenses for 2011	1
11	2011 Income Summary for Subject Property	2
12	Real Estate Transfer Statement for 1625 S 67th St., Omaha, NE (Comp #1)	1
13	Loopnet Summary of 3301 S 72nd St., Omaha, NE (Comp #2)	3
14	Summary of 2105 Pratt Ave., Bellevue, NE (Comp #3)	3
15	Loopnet Summary of 2105 Pratt Ave., Bellevue, NE (Comp #3)	4
16	Excerpt from The Valuation of Hotels and Motels for Assessment Purposes	56

Hinn submitted a letter to the Board of Review explaining his position. (Exhibit 6). Hinn provided a Market Value Review grid, which included properties he considered comparable and information about each property. (Exhibit 3). He asserts the average price per room of the comparable properties he submitted is \$14,038. (Exhibit 3). Therefore, in his opinion, the value of the subject

property is \$1,431,876; yet the petition seeks a valuation of \$1,700,000. The unadjusted sale prices of the comparable properties ranged from \$1,120,000 to \$1,676,000. They sold between January 2012 and December 2012. Hinn reports Comparable #3 located at 2105 Pratt Avenue, Bellevue, Nebraska sold in December 2012 for \$1,120,000. However, a summary of this property indicates it sold for \$1,370,000, in what appears to have been a distressed or abnormal transaction. (Exhibit 14). As such, the sale would not be considered arm's-length for assessment purposes. Hinn did not adjust the sales even though he identified differences in condition, quality, and age. Furthermore, all of properties are all located in Nebraska, and it is unclear if they require a location adjustment compared to the subject. For these reasons, we give Hinn's Market Value Grid no consideration.

Hinn also provided income and expense statements from 2009-2012, as well as a basic income analysis for 2010-2012. (Exhibits 1, 9-10; 2, 8, & 11). The follow chart summarizes his income analysis.

Year	Net Operating Income (NOI)	Loaded Capitalization Rate	Value (Excluding FF&E)
2010	\$313,255.50	14.4%	\$1,563,385.42
2011	\$363,728.50	14.4%	\$1,913,892.36
2012	\$389,323.00	14.4%	\$2,091,631.94

It appears that actual market rates were used in the development of this analysis and there is no indication whether the actual rates are equal to market rates. Additionally, there is no explanation of how Hinn determined the capitalization rates or the FF&E of \$6000 per-room for each year; or what the final conclusion of value is for the January 1, 2013, assessment based on this information. For these reasons, we give this income analysis no consideration.

We find the additional evidence Hinn submitted, such as the excerpt "The Valuation of Hotels and Motels for Assessment Purposes" by Stephen Rushmore and Karen E. Rubin, is insufficient evidence in determining the fair market value of the subject property. (Exhibit 15). In his letter to the

Board of Review, Hinn states the reason he provided the Rushmore/Rubin excerpt is that he believes it demonstrates the cost approach should not be used to determine the assessed value, which is what he believes the assessor's office relied on. However, we note it is Hinn's burden to show the property is over assessed, and Iowa law recognizes cost as an alternative method of valuation.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

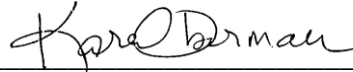
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). Before relying on the income approach or other factors, a party or witness must first establish that comparable sales are not available to value the property. *Compiano*, 771 N.W.2d at 397-99; § 441.21(2).

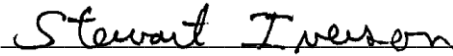
Hinn provided a Market Review Grid with three sales, but he did not adjust any of the properties for differences. Further, one of the sales appears to have been a distressed or abnormal transaction. Hinn also included an income approach, but it was limited in scope and did not appear to determine if the actual income and expenses were similar to market income and expenses. While we recognize commercial sale transactions are driven largely by income expectations, Iowa law requires that evidence of comparable sales must be addressed before considering the income approach to value or other factors. Further, the evidence lacked explanation and, ultimately, Hinn offered no conclusion of market value for the January 1, 2013, assessment based on the evidence. Thus, the record does not show that the property is assessed for more than authorized by law.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 1201 Avenue H, Carter Lake, Iowa, is affirmed.

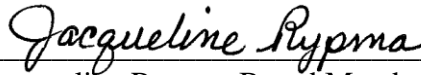
Dated this 15th day of April 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:  
Lloyd Hinn Jr.  
2201 Wilderness Ridge Drive  
Lincoln, NE 68512  
APPELLANT

Leanne A. Gifford  
Assistant County Attorney  
227 S 6th Street, 5th Floor  
Council Bluffs, Iowa 51501  
ATTORNEY FOR APPELLEE